

ROY W. REED

IBLA 72-17

Decided September 25, 1972

Appeal from decision by New Mexico state office, Bureau of Land Management, which denied request by appellant to withdraw his relinquishment of oil and gas lease NM 0553860 (Okla.).

Affirmed.

Oil and Gas Leases: Reinstatement

There is no authority in the Secretary of the Interior to reinstate an oil and gas lease which has been relinquished.

Oil and Gas Leases: Relinquishments

One who voluntarily surrenders his oil and gas lease, by filing a written relinquishment thereof in the appropriate BLM office, cannot withdraw his relinquishment.

APPEARANCES: William D. Mobley, Esq., for the appellant.

OPINION BY MR. FISHMAN

Roy W. Reed was the record owner of competitive oil and gas lease NM 0553860 (Okla.). He voluntarily surrendered the lease on May 13, 1971, by filing a written relinquishment of all rights under the lease in the New Mexico state office of the Bureau of Land Management. Thereafter, Reed requested the Bureau to withdraw his relinquishment for the reason that he filed it by mistake. The Bureau denied his request by its decision of June 25, 1971, and Reed filed this appeal to the Secretary of the Interior.

Rights under an oil and gas lease may be relinquished pursuant to 30 U.S.C. § 187b (1970), which provides in pertinent part:

* * * a lessee may at any time make and file in the appropriate land office a written relinquishment of all rights under any oil or gas lease * * *. Such relinquishment shall be effective as of the date of its filing * * *.

The question of whether a relinquishment of an oil and gas lease may be withdrawn and the lease reinstated was considered in Thomas F. McKenna et al., 62 I.D. 376, 379 (1955). In McKenna the Department stated:

No action is required by the Secretary in connection with relinquishments. In fact, he is precluded from interfering with the voluntary act of the lessee. Thus, once a relinquishment is filed, there is nothing upon which the Secretary can act. Relinquishment is purely a unilateral act on the part of the lessee. Therefore, to hold that a relinquished lease can be reinstated would be to hold that the lessee has power to rescind his relinquishment.

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Therefore, it must be concluded that when a lessee files his relinquishment of an oil and gas lease in the appropriate land office, he exercises the right granted to him by section 30(b) of the Mineral Leasing Act; he voluntarily ends his lease relationship with the United States as of the date of the filing of the relinquishment; and he has no right to withdraw a relinquishment once properly filed. Thereafter, such a person stands on the same footing as any other person who desires to acquire an oil and gas lease on the land.

Appellant contends that the Secretary has authority to reinstate the lease in issue under 30 U.S.C. § 188(c) (1970); however, that section is inapposite. Section 188(c) authorizes the Secretary to reinstate an oil and gas lease which has been terminated automatically by operation of law for failure to pay the rental timely. It does not authorize the Secretary to reinstate an oil and gas lease which has been relinquished.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals, 43 CFR 4.1, the decision appealed from is affirmed.

Frederick Fishman
Member

We concur:

Newton Frishberg
Chairman

Douglas E. Henriques
Member

